

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Group Art Unit: 1913  
DWAIN MORSE ET AL. )  
Serial No.: 10/810,928 )  
Filed: March 25, 2004 )  
For: **ADJUSTABLE CONTAMINATED** )  
**LIQUID MIXING APPARATUS** )

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**PETITION TO THE DIRECTOR OF THE UNITED PATENT AND TRADEMARK**  
**OFFICE FOR SUSPENSION OF THE RULES UNDER 37 C.F.R. SECTION 1.183**  
**AND FOR APPOINTMENT OF A SECOND ATTORNEY OF RECORD UNDER MPEP**  
**SECTION 402.10**

INTRODUCTION

Assignees, Dwain E. Morse and Gerald M. Friedman (Jerry Friedman), hereby petition the Director of the United States Patent and Trademark Office under 37 C.F.R. Section 1.183 to suspend the rules and to allow the appointment of a second attorney of record, representing Mr. Friedman, under MPEP Section 402.10.

Petitioners submit the accompanying affidavit of Denton L. Anderson as proof of the facts germane to this petition.

The undersigned authorizes the United States Patent and Trademark Office to withdraw the \$400.00 fee due under 37 C.F.R. Section 1.17(f) from Deposit Account No. 19-2090.

STATEMENT OF THE FACTS

The present application was filed on March 25, 2004 naming as inventors Dwain E. Morse, Wade O. Morse and Thomas G. Matherly. In a document dated March 24, 2004, inventors Dwain E. Morse, Wade O. Morse and Thomas G. Matherly assigned all right, title and interest in the application to Dwain E. Morse and Jerry Friedman. This assignment has been recorded by the United States Patent and Trademark Office in real/frame 015162/0771.

Assignees Dwain E. Morse and Jerry Friedman are now adverse to one another regarding, among other issues, the rightful ownership of the present application. Mr. Morse and Mr. Jerry Friedman are presently on opposite sides of a civil action pending in United States District Court, Western District of California, as Dwain E. Morse v. Clean Water Technology, Inc., Marvin Engineering Co., Gerald M. Friedman, a.k.a. Jerry Friedman [and] Ariel Lechter, Court Case No. CV07-1282 (AHM).

At the time the present application was filed, all parties were represented by attorneys at Kelly Bauersfeld Lowry & Kelley, LLP (now Kelly Lowry & Kelley, LLP), including Mr. Scott W. Kelley. Assignee Dwain E. Morse remains represented by those attorneys.

On July 18, 2006, however, assignor Friedman filed a Revocation of Power of Attorney and new Power of Attorney naming attorneys at the Law Firm of Sheldon & Mak (now Sheldon Mak Rose & Anderson), including Mr. Denton L. Anderson, as his attorneys

of record. Unfortunately, the forms signed by Mr. Friedman inadvertently had the box checked indicating that Mr. Friedman was the assignee of the entire, right and interest in the invention. Because of this error, the United States Patent and Trademark Office records apparently indicate that Sheldon Mak Rose & Anderson attorneys are the attorneys of record for all of the parties.

In fact, assignee Mr. Dwain E. Morse remains represented by Kelley Lowry & Kelley, LLP, while assignee Jerry Friedman is now represented by Sheldon Mak Rose & Anderson. The parties are adverse to one another and cannot agree on a single attorney of record. Accordingly, petitioners request that the present application be allowed to go forward with two listed attorneys of record pursuant to the provisions of MPEP Section 402.10.

Attorneys Scott W. Kelley and Denton L. Anderson, on behalf of both assignees, have agreed that it is in the best interests of both assignees that the present application go forward with attorneys from both Kelly Lowry & Kelley, LLP and Sheldon Mak Rose & Anderson as co-attorneys of record. Messrs. Kelley and Anderson have further agreed that future correspondence should be directed to Mr. Anderson.

FORMAL REQUESTS PURSUANT TO THIS PETITION

Petitioners request that the rules be suspended under 37 C.F.R. Section 1.183 and that:

1. Jerry Friedman's previously filed Revocation of Attorney With New Power of Attorney and Change of Correspondence Address dated July 18, 2006 be recognized to indicate that Mr. Friedman's Revocation of Power of Attorney to Mr. Kelley is only with respect to Mr. Friedman's interests, and not with respect to the interests of Mr. Dwain E. Morse;
2. That previously named attorneys with Sheldon Mak Rose & Anderson be recognized as attorneys of record for the interests of Mr. Friedman;
3. That previously named attorneys with Kelly Lowry & Kelley, LLP be recognized as the attorneys of record for Mr. Dwain E. Morse;
4. That previously named attorneys with Kelly Lowry & Kelley, LLP and Sheldon Mak Rose & Anderson be allowed to jointly prosecute the present application before the United States Patent and Trademark Office; and
5. That all correspondence sent by the United States Patent and Trademark Office to the applicants in the present application be addressed to Denton L. Anderson, Sheldon Mak Rose & Anderson, 225 South Lake Avenue, 9<sup>th</sup> Floor, Pasadena, California 91101.

Respectfully submitted,

SHELDON MAK ROSE & ANDERSON

By: Denton L. Anderson  
Denton L. Anderson  
Reg. No. 30,153

KELLY LOWRY & KELLEY, LLP

By: Scott W. Kelley  
Scott W. Kelley  
Reg. No. 30,762

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AFFIDAVIT OF DENTON L. ANDERSON

I, Denton L. Anderson, declare as follows:

1. I am a member of Sheldon Mak Rose & Anderson, attorneys for assignee Gerald M. Friedman (a.k.a. Jerry Friedman).

2. The present application was filed on March 25, 2004 naming as inventors Dwain E. Morse, Wade O. Morse and Thomas G. Matherly.

3. In a document dated March 24, 2004, inventors Dwain E. Morse, Wade O. Morse and Thomas G. Matherly assigned all right, title and interest in the application to Dwain E. Morse and Jerry Friedman. This assignment has been recorded by the United States Patent and Trademark Office in real/frame 015162/0771.

4. Assignees Dwain E. Morse and Jerry Friedman are now adverse to one another regarding, among other issues, the rightful ownership of the present application. Mr. Morse and Mr. Jerry Friedman are presently on opposite sides of a civil action pending in United States District Court, Western District of California, as Dwain E. Morse v. Clean Water Technology, Inc., Marvin Engineering Co., Gerald M. Friedman, a.k.a. Jerry Friedman [and] Ariel Lechter, Court Case No. CV07-1282 (AHM).

5. At the time the present application was filed, all parties were represented by attorneys at Kelly Bauersfeld Lowry & Kelley, LLP (now Kelly Lowry & Kelley, LLP), including Mr. Scott W. Kelley. Assignee Dwain E. Morse remains represented by those attorneys.

6. On July 18, 2006, however, assignor Friedman filed a Revocation of Power of Attorney and new Power of Attorney naming attorneys at the Law Firm of Sheldon & Mak (now Sheldon Mak Rose & Anderson), including Mr. Denton L. Anderson, as his attorneys of record. Unfortunately, the forms signed by Mr. Friedman inadvertently had the box checked indicating that Mr. Friedman was the assignee of the entire, right and interest in the invention. Because of this error, the United States Patent and Trademark Office records apparently indicate that Sheldon Mak Rose & Anderson attorneys are the attorneys of record for all of the parties.

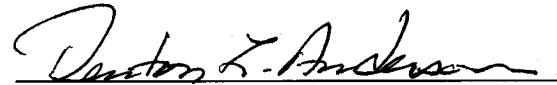
7. In fact, assignee Mr. Dwain E. Morse remains represented by Kelley Lowry & Kelley, LLP, while assignee Jerry Friedman is now represented by Sheldon Mak Rose & Anderson. The parties are adverse to one another and cannot agree on a single attorney of record.

8. Attorneys Scott W. Kelley and Denton L. Anderson, on behalf of both assignees, have agreed that it is in the best interests of both assignees that the present application go forward with attorneys from both Kelly Lowry & Kelley, LLP and Sheldon Mak Rose & Anderson as co-attorneys of record.

9. Messrs. Kelley and Anderson have further agreed that future correspondence should be directed to Mr. Anderson.

I declare under penalty of perjury that the foregoing is true and correct, and that if called to testify thereto, I could and would so testify. All of the statements made in this affidavit are personally known to me to be true, and any statements made on information and belief are believed to be true. I further declare that I understand that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. §§ 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Executed this 9<sup>th</sup> day of April, 2007, at Pasadena, California.



Denton L. Anderson